

REBUTTAL

FOR RETREAT FARM PUBLIC INQUIRY

Planning Application P/2017/1023

Demolish glasshouse and ancillary structures in Field 770. Construct 13 No. two bed and 14 No. three bed self-catering accommodation units and ancillary structures with associated hard and soft landscaping. Change of use of resulting agricultural field to car park, including hardstanding and associated works. Widen La Rue de la Frontiere and alter vehicular access. Construct bus shelter and form footpath to South-West of site. Construct terraced seating area to North of existing café. 3D model available. AMENDED DESCRIPTION: Additional plans and documents received in support of submission and in response to representations received. AMENDED PLANS RECEIVED. Environmental Impact Statement (EIS) submitted. FURTHER AMENDED DESCRIPTION: Additional plans received in response to previous Department for Infrastructure highway comments. FURTHER AMENDED PLANS RECEIVED at Retreat Farm, La Rue de la Frontiere, St. Lawrence/St. Mary

Planning Application P/2017/0805

Demolish glasshouses to Field No. L78. Alter vehicular access onto La Rue de la Frontiere. Construct 1 No. four bedroom single storey house, detached three car garage and swimming pool to car park South of Field No. L78 with associated landscaping and parking. 3D MODEL AVAILABLE. AMENDED DESCRIPTION: Additional plans and documents received in support of submission and in response to representations received. AMENDED PLANS RECEIVED at Car Park and Field No. L78, Retreat Farm, La Rue des Varvots St. Lawrence

Prepared by Stephanie Steedman

12th February 2018

1 INTRODUCTION

- 1.1 The following comments are provided on behalf of the Applicant in response to the Proof of Evidence prepared by the Department of the Environment. It also takes the opportunity to address comments made by statutory consultees since the Applicant's Proof's of Evidence were prepared and also provide an update in response to public comments that have been made through the Planning Department's portal and Face Book, and also in response to the Applicant'
- 1.2 The requirement for an assessment of planning policies is provided for by Article 19 of the Planning and Building (Jersey) Law, 2002 9as amended). In accordance with Articles 19(1) and (2) the development proposed has been assessed in accordance with the Revised 2011 Island Plan (2014) ("RIP 2011)", and having regard to all material considerations, relevant draft and adopted supplementary planning guidance published by the Planning Department and other policies and to all other material considerations relevant to the land-use decision-making process. It may be that not all planning policies can be complied with and, if so, it appears implicit that a final balance judgement must be made about compliance "with the Island Plan" taken as a whole (see Article 19(3)).
- 1.3 The most appropriate starting point is the strategic policies of the Island Plan (2014). Paragraph 2.1, page 15 states that the Island Plan is the policy document that will determine the way land is used in Jersey over the Plan period. The framework that it provides is based on some key strategic principles, which are set out in the form of strategic policies (SP1-SP7). The framework that these strategic policies provide is the starting point for the assessment of development proposals, informed by the specific policies provided in subsequent chapters. There are a raft of policies relevant to the

assessment of development proposed by the Applications, Policy NE7 (Green Zone) is an important policy, but must be balanced with all other Island Plan policies.

2 STRATEGIC POLICY CONTEXT

Responding to paras. 3.1 – 3.3:

- 2.1** The hierarchy of current planning policy precedes the Strategic Plan 2015-2018. The current Island Plan (revised in part in 2014) was approved by the States of Jersey in 2011. The revisions approved in 2014 were mostly concerned with refinement of the purposes of the Green Zone policy (NE7) and changes to policies providing for housing.

Responding to para. 3.4:

- 2.2** The Island Plan (revised 2014) provides the land-use decision-making framework for development proposals in the island and sits alongside the States of Jersey Strategic Plan (2015-2018). It is agreed that delivering a sustainable pattern of development in Jersey is a key priority, as is meeting the other strategic aims of the Island Plan.

Responding to paras 3.5 – 3.7:

- 2.3** Planning permission will only be given for development outside the Built- Up Area of brownfield land, which meets an identified need, and where it is appropriate to do so. The policy terms encompass “development” and are not limited to the “the application for planning permission for the development”. In the instant matter, there are two applications for planning permission on land that is adjacent and that is to be subject to a planning obligation such that, together, the development comprises a unified whole whose delivery will be guaranteed.

- 2.4** This is the principle guiding development proposals: there is a need to find locations to support the island’s tourism industry; there is a

need to remediate glasshouses sites that have the potential to blight the landscape character of the island's countryside; there is a need to restore land to agricultural quality; there is a need to protect the island's infrastructure (drainage and roads); there is a need to enhance and provide opportunities for increased biodiversity.

2.5 The location of proposals is entirely appropriate being the largest glasshouse site in the island, now redundant to the industry it was constructed to support, in a location where it has the potential to enhance the island's tourism economy and restore land to the island's land bank to be used for cultivation.

2.6 Not only does development meets the tests of Policy SP1(2) it provides development envisaged by the Strategic Plan 2015-2018. It also embraces the strategic objectives provided for by a number of States of Jersey (government) strategies: Destination Jersey (2015) and Rural Economy Strategy (2017).

Responding to para. 3.8:

2.7 Through the assessments and Environmental Impact Statement (EIS) prepared to support the Applications, it is demonstrated that development proposals make efficient and effective use of land, energy water resources and buildings to deliver a sustainable form and pattern of development.

2.8 Proposals seek to provide tourism accommodation in a location that supports an existing tourism/leisure facility and where visitors can stay in the asset they have come to enjoy, without travelling from the Built-Up Area.

2.9 There is no presumption against the loss of tourism accommodation in the Island Plan. As a result many of the island's hotels and guest houses have been converted or redeveloped into (predominantly) residential development A starting point (presumption) that all new development should be directed to the

Built-Up Area, misses opportunities such as those that are presented by the Applications. It cannot be unreasonable to improve an existing tourism/leisure facility and provide tourism accommodation in a location that supports an existing tourism/leisure destination (as has been approved at Les Ormes, St Brelade), where taking all land-use policies into consideration there is general compliance with policies of the Island Plan.

Responding to paras. 3.10 – 3.12:

2.10 The Applications result in the restoration of landscape character. Two very large structures, with associated infrastructure are replaced with restored landscape and ground condition. The Character Type priorities for Character Area E6: Central Plateau - Valley Heads of the Countryside Character, provides for some capacity for new development within the Character Area. Field boundaries are identified as essential character and their restoration is identified as an important management priority. The Applications propose the retention and restoration of boundaries around Fields M770 and L78.

2.11 A landscape strategy has been submitted and subject to planning permission being granted, further detailed landscape proposals will be submitted, informed by the findings of ecological assessments undertaken, to improve opportunities for enhancing local biodiversity.

Responding to paras. 3.13 – 3.14:

2.12 It is agreed that the Applications meet the purpose of Policy SP5 – economic growth and diversification. The Applications (which are uniquely presented as a package by the same owner as the adjacent Tamba Park) result in the re-use of employment land to support the island's economy. The replacement of a redundant car-park by a single dwelling, supporting the minimum redevelopment required of the glasshouses on the adjacent site, enables the package of development presented by Applications, which retains

the majority of the site in employment use, with resulting environmental enhancements.

Responding to paras. 3.15 – 3.16:

- 2.13** Siting tourism accommodation in the very place where visitors want to enjoy the island and make use of visitor attractions has the potential to reduce vehicle trips. The Applicant has made changes to Planning Application P/2017/1023 to provide dedicated bus stops for Tamba Park and the self-catering accommodation and also presented a Travel Action Plan, which provides a package of measures designed to encourage sustainable transport modes.

Responding to para 3.16:

- 2.14** It is agreed that Policy NE7 should receive prominent emphasis in the consideration of the Applications. However, the strategic policies of the Island Plan require a balanced assessment of all strategic aims, supported by the specific policies of the Plan. Policies SP4 – Protecting the natural and historic environments and SP5 – Economic growth and diversification are attributed by the Island Plan a high priority. The Applications deliver the reuse of the majority of a redundant employment site, whilst restoring its landscape character and delivering environmental enhancements, all in accordance with the Island Plan.

3 GREEN ZONE POLICIES

- 3.1** Paras. 4.2 -4.4 quote extracts from the Island Plan and appears to suggest that relevant tests of Policy NE7 are provided for by paragraphs 5, 7, 10 and 11 (of Policy NE7).

- 3.2** It is acknowledged in paragraph 4.3 of the DoE Proof that the Green Zone does not preclude all forms of development. There is provision for exceptions to be made subject to the key tests of Policy NE7 being met, with strong justification to explain the essential requirement for a countryside location, why development

cannot be accommodated in the Built-Up Area and how development can be provided without serious harm to landscape character.

- 3.3 These tests have been addressed under section 2.0 above.
- 3.4 The Applicant's assessment under Policy NE7 has considered the tests provided by paragraphs 7, 10 and 11.
- 3.5 Applications for new tourism accommodation require consideration under the tests provided by para. 11 of Policy NE7. The key test is the impact of development upon landscape character.
- 3.6 The Department has referred to reasoned justification provided by para. 2.159 of the Island Plan, but excludes the last sentence, which states, 'Given the presumption against new development in the Green Zone and exceptions related to new or extended tourism attractions (or uses as provided for the title to this section), must have limited impact on its relevant landscape character.
- 3.7 The development proposed by the Applications delivers landscape restoration.
- 3.8 Paragraph 4.7 of the DoE's Proof references paragraph 2.162 of the Island Plan. This reasoned justification supports the assessment of ancillary tourism buildings and services and is appropriate to the assessment of the four ancillary buildings proposed as part of Planning Application P/2017/1023. It is considered that the tests of NE7 in this regard are met.

4 THE SELF-CATERING ACCOMMODATION

- 4.1 It is not agreed that the proposals for the 27 No. self-catering lodges fall to be considered under para. 2.162 of the reasoned justification of the Island Plan.
- 4.2 Provision for new proposals for new tourism accommodation is provided for by para. 11 of NE7. Paragraphs 2.159 – 2.162 provide

further explanation about the provisions of this section of Policy NE7.

- 4.3 Paragraph 2.162 references ancillary services and buildings supporting tourism and should not be used to describe the self-catering lodges or the development as a whole. Paragraph 2.161 states that proposals to extend existing leisure and tourism facilities will be considered as with any other employment use.
- 4.4 The DOE identifies the essential character of the area in paragraph 5.3 of their Proof, referencing the description provided by the Countryside Character Appraisal (1999) (CCA). It is not agreed that a defining characteristic of this site is long views across the landscape. Whilst that may be so of the wider landscape Area in which the Site lies and the general situation of that wider landscape, the particular character of the application Site is that it is enclosed and so not subject to long-views, and a defining landscape character feature of the Application Sites is its intimate character, obscured from long-views by topography, and the arrangement of landscape boundary features such as hedgerows.
- 4.5 An appraisal of landscape and visual impact has been prepared and is included within the Environmental Impact Statement submitted to support the Applications. The design response to the CCA guidance, has been addressed by [REDACTED] (Origin Architects) in his Proof of Evidence.
- 4.6 The Character Area in which the Applications are located provides some (limited) capacity to accept new development. Other Character Areas are identified as having no capacity at all. The landscape character and environmental enhancements delivered by the Applications are well documented.
- 4.7 At paragraphs 5.6 – 5.9 the DoE's Proof quotes Island Plan Policy ERE7 and reasoned justification supporting Policy EVE1 – Visitor accommodation, tourism and cultural attractions.

- 4.8** At paragraph 5.10 the tension (referred to as dilemma by the DoE) between competing policy objectives is acknowledged. It is not uncommon for policies concerning development to pull in different directions and it is for that reason that an overall assessment of compliance with the Island Plan policies (as a whole) falls to be made ultimately. It is also agreed that policy tensions can be resolved if proposals for new tourist related accommodation recognise the sensitivity of the areas covered by policies for the countryside. The Applications seek to restore landscape character and ground condition quality to enhance the assets identified as important and worthy of protection in the CCA.
- 4.9** At paragraph 5.11 it is stated that proposals for new or extended tourism and cultural attractions will (therefore) be considered in accordance with the advice appropriate to the particular zoning of the site. The Island Plan as a whole also requires consideration as provided for by Article 19 of the Law.
- 4.10** The requirement for clear evidence to support the case (identified in paragraph 5.11 of the DoE Proof) has been provided and set out the Proof of Evidence prepared by Mrs Steedman (public inquiry document ref: AB16). The strategic support for the self-catering lodges is evidenced in Destination Jersey (2015) and supported by [REDACTED] (CEO, Visit Jersey) in [REDACTED] letter included as Appendix 3 to AB16) and also by the Head of Rural Economy Strategy (included as Appendix 4 to AB16). The need to make the best use of the island's scarce resource (land) in accordance with sustainable principles is required by the strategic policies of the Island Plan.
- 4.11** In response to comments provided by paragraphs 5.12 it is not agreed that the tests provided by policy NE7 take precedence over all other policies. The entire Island Plan and its purposes need to inform land-use decision-making.

4.12 Paragraph 5.13 states that the tests provided by Policy ERE7 have not been met. It is suggested that no evidence has been provided to:

- justify the requirement for 27 No. lodges; and,
- whether this number of units and the costs of provision is commensurate with the amount required to clear the site and create the extended tourism facility,

It is stated that this is a clear requisite of the policy.

4.13 Although Policy ERE7 provides a general presumption against the redevelopment of redundant and derelict glasshouses for other uses, in exceptional circumstances, their development may be considered for non-agricultural purposes, provided that the amount of development permitted will be the minimum required to ensure a demonstrable improvement of the site by the removal of the glasshouses and any contaminated material, the reduction in the area of buildings, and the repair to landscape, and accords with Policy GD1 – General development considerations.

4.14 There is no published guidance about how the tests of Policy ERE7 are applied. At paragraph 5.161, the Island Plan states any development of glasshouse sites will be considered on the planning merits of each individual site. If development is allowed, it will be limited to development with a value commensurate with the costs of removing the glasshouses and restoring most of the land to agricultural use. This reasoned justification differentiates between “value” and “cost” and these factors are not the same, value being a broad concept and able to encompass a wide range of benefits and matters of value.

4.15 The costs of removing the glasshouses and restoring it to agricultural quality are provided in Estimating Services reports (included as Appendices 7 and 8 to [REDACTED] Proof of Evidence – public inquiry ref: AB11). The cost of implementing the

development proposed is also estimated. These estimates confirm that costs associated with remediating the land, restoring landscape character and delivering environmental enhancements are not inconsiderable.

4.16 The amount of development proposed represents the minimum required to deliver the package of landscape character improvements and environmental enhancements delivered by the Applications. Proposals deliver development, which has significant value, by finding an alternative use for what is probably the largest brownfield site in the island, whilst meeting the objectives set by the Island Plan to deliver development that is sustainable.

4.17 As explained by ██████ in ██████ Proof the land on which the self-catering lodges and new car-park are located, provides for the restoration of land to a quality that enables it to be re-used for agricultural purposes in the future. The information to explain landscape proposals explains that landscape character will be restored through the recreation of field boundaries and additional planting within the sites.

4.18 There is no requirement for a reduction in the area of buildings (para. 5.14 of DoE Proof). It is considered that the Applications deliver development that will repair the landscape.

4.19 The quality of the self-catering lodges and ancillary buildings is discussed further by ██████ in ██████ Rebuttal, issued separately.

5 THE NEW DWELLING

Response to paras. 6.1 - 6.9

5.1 Planning permission is not sought for many dwellings but for a single dwelling of a single storey, for ██████ as ██████ home. Policy ERE7 provides for the redevelopment of glasshouse sites for non-agricultural purposes (discussed in 4.12 above). Use of land for a non-agricultural purpose (here, residential) is recognised as

acceptable under this policy. There is provision for each case to be considered on its planning merits (para. 5.161 Island Plan).

5.2 There have been a number of cases (referred to by ██████ in ██████ Proof, para. 3.18), where glasshouse sites have been allowed to be replaced by dwellings. This is not unprecedented and provides for the removal of unsightly structures, the remediation of land and restoration of landscape character.

5.3 The reasonableness and enforceability of Condition No. 4 of planning permission 3199/PA is discussed by ██████ in ██████ Proof (AB11 para.4.8). There is no knowledge of this condition having ever been enforced.

5.4 If judged to be applicable, the costs of requiring Condition No.4 to be enforced are also a material consideration. It has been estimated by Estimating Services that removing the glasshouses on the eastern part of the site and restoring the land to agriculture will cost approx. £309,000. It is understood that rental figures for good quality agricultural land are approx. £500 per vergee (to be confirmed by ██████) (a vergee is a Jersey land measurement; there are 2.25 vergees in 1 acre). The cost of buying good quality agricultural land is approx. £8,000 per vergee (to be confirmed by ██████). On the basis of these figures for an expenditure of £309,000 (not including purchase price) the Applicant could expect a return of approx. £3,500 per year if the land was restored and rented for agricultural use and £56,000 if the land was restored and sold for agricultural use.

5.5 The Applications are also supported by the Head of Rural Economy Strategy; “Adding value to rural settings has been a factor in broadening the rural economy to encompass a greater variety of businesses including in the service sector and tourism.” It has been confirmed that the support is given to both Applications.

5.6 It is noted that a separate planning application for a staff dwelling (ref: P/2017/0519) has received a positive recommendation from

Officers. The dwelling proposed by Application P/2017/0805 seeks to provide one dwelling on the car-park that currently serves Tamba Park to provide the Applicant's Director [REDACTED] with a home, which removal and relocation to another part of the site is supported by Dfl Highways. The proposal for the dwelling is part of the package of measures that delivers environmental enhancements and improvement to landscape character through the comprehensive redevelopment of the Sites. It also returns a restored Field L78 to the island's land-bank for agricultural use.

6 ECOLOGICAL IMPACT

Response to paras. 7.1 – 7.3.

- 6.1** The confirmation that ecological issues have been satisfactorily addressed to provide compliance with the relevant Island Plan policies is noted. It is confirmed that identified mitigation measures and the implementation of recommendations provided in Species Protection Plans will be implemented.

7 TRANSPORT IMPACT

- 7.1** Support of both Applications by Dfl – Highways is confirmed.
- 7.2** The alteration of the western boundary of Field 772 to introduce significant access improvements by public transport has been assessed and considered in the appraisal of landscape and visual impacts presented with the EIS.
- 7.3** Delivering the access enhancements identified by the Applications requires the removal of a section of the north-west boundary of Field 772, where a line of trees provides visual character. The development proposes the introduction of a bus refuge on the western side of La Rue de La Frontiere, a small widening of la Rue de La Frontiere and the creation of a footpath and bus shelter on the eastern boundary of Field 772. A new landscaped boundary is to be planted along the new boundary with Field 772.

- 7.4 It is acknowledged that in the short-term these changes have the potential to be adverse through the loss of a section of mature landscape. In the medium to long-term, through the careful choice of replacement trees and design of new landscape features, these changes will contribute positively to the visual character of the area.
- 7.5 The short-term adverse impacts on landscape character need to be balanced against the significant access improvements delivered by the scheme and also the wider landscape enhancements delivered by the Applications.
- 7.6 The provision of car-parking to replace that which is currently provides for a busy tourism/leisure destination. The number of car-parking spaces proposed meets the peak demand experienced by Tamba Park and also provides for the proposed self-catering lodges.

8 GROUND CONDITIONS, CRIME IMPACT, WASTE MANAGEMENT, RENEWABLE ENERGY

- 8.1 Agreed

9 DRAINAGE IMPACTS

- 9.1 Proposals have been amended to address concerns previously raised by Dfl – Operations, Drainage Section in statutory response comments.
- 9.2 Dfl – Operations has further commented on Planning Application P/2017/0805 (dated 29th January 2018, included as **Appendix 1**) that it has no objections to proposals. The further clarification required to explain surface water run-off on the car-parking area will be provided as requested.

10 LOSS OF AGRICULTURAL LAND

- 10.1** Any condition imposed on the occupancy of Field M770 under the Agricultural Land (Control of Sales and Leases) (Jersey) law, 1974 is imposed by the Minister for the Environment, who also administers the Planning and Building (Jersey), Law (as amended).
- 10.2** Should planning permission be granted, the Minister would also be granting consent for the conditions imposed by the Agriculture Law to be set aside.
- 10.3** It has been proved that there is no horticultural use for the site (see [REDACTED] Proof). The costs of reinstating the land to agricultural use have been estimated by Estimating Services (Appendix 8 of [REDACTED] Proof – AB11). Based on the market value of restored agricultural land (see 5.4 above), it is unlikely that the restoration of the land to agricultural use will deliver a viable economic return.

11 DESIGN

- 11.1** The design parameters identified by the DoE have informed the design approach to both Applications.
- 11.2** The DoE's positive response to the design of the ancillary buildings is welcomed. It is not agreed that the two and three bedroom self-catering lodges are 'ordinary timber clad chalets, located in close proximity to each other.
- 11.3** Further information to explain the design of the lodges has been provided by [REDACTED] in [REDACTED] Proof (AB14) and Rebuttal (AB19).

12 HERITAGE ASSESSMENT

- 12.1** Agreed. The Heritage Assessment makes clear that the provision of a single storey dwelling in the Tamba Park car park following removal of the glasshouse on Field L78 will improve the setting of the Retreat Farm listed building.

13 RURAL ECONOMY

- 13.1 The Head of Rural Economy Strategy has confirmed that his comments apply to both planning applications.

14 PUBLIC RESPONSES

- 14.1 Since Proofs of Evidence were prepared there has been further comment on planning application P/2017/1023 by a member of the public (attached as **Appendix 2**), raising concern about the loss of another tourism site (The Living Legend) in the island to residential use.
- 14.2 The Planning Applications must be determined on the basis of the uses applied for. Decisions cannot be made based on the possibility of other uses that may or may not be acceptable.
- 14.3 The public inquiry and availability of current plans has been advertised by the Applicant independently (see **Appendix 3**). There has been one request for the plans by a member of the public.
- 14.4 The public inquiry and proposals have been posted on Tamba Park's FaceBook page (copy of post included as **Appendix 4**). A selection of comments made by Tamba Park FaceBook subscribers was included as Appendix 22 to [REDACTED] Proof (AB14). More recent comments can be reviewed at https://www.facebook.com/pg/tambapark/posts/?ref=page_internal.

15 STATUTORY CONSULTATION RESPONSES

- 15.1 Since the submission of Proofs there has been further comment by the Department for infrastructure – Operational Services – Drainage (dated 29th January 2018) raising no objection. Comments have already been attached as Appendix 1.

15.2 The Department for Environment has referenced and attached as Appendix F to its Proof comments dated 3rd February 2018 provided by the Historic Environment Team. No objections are raised.

Appendix 1: Department for infrastructure – Operational Services
– Drainage (dated 29th January 2018)

Appendix 2: P/2017/1023 comment by a member of the public
dated 3rd February 2018

Appendix 3: Advert in Jersey Evening Post placed by Applicant
dated 8th February 2018

Appendix 4: Copy of Applicant's post on FaceBook.